

109TH CONGRESS  
1ST SESSION

# H. R. 1182

To amend the Truth in Lending Act to impose restrictions and limitations on high-cost mortgages, to revise the permissible fees and charges on certain loans made, to prohibit unfair or deceptive lending practices, and to provide for public education and counseling about predatory lenders, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2005

Mr. MILLER of North Carolina (for himself, Mr. WATT, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Truth in Lending Act to impose restrictions and limitations on high-cost mortgages, to revise the permissible fees and charges on certain loans made, to prohibit unfair or deceptive lending practices, and to provide for public education and counseling about predatory lenders, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Prohibit Predatory Lending Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions relating to high-cost mortgages.
- Sec. 3. Amendments to existing requirements for certain mortgages.
- Sec. 4. Additional requirements for certain mortgages.
- Sec. 5. Amendment to provision governing correction of errors.
- Sec. 6. Amendment relating to right of rescission.
- Sec. 7. Protections for all home loans.
- Sec. 8. Amendments to civil liability provisions.
- Sec. 9. Regulations.

### **SEC. 2. DEFINITIONS RELATING TO HIGH-COST MORTGAGES.**

(a) HIGH-COST MORTGAGE DEFINED.—Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended by striking all that precedes paragraph (2) and inserting the following:

“(aa) HIGH-COST MORTGAGE.—

“(1) DEFINITION.—

“(A) IN GENERAL.—The term ‘high-cost mortgage’, and a mortgage referred to in this subsection, means a consumer credit transaction that is secured by the consumer’s principal dwelling, other than a reverse mortgage transaction, if—

“(i) in the case of a loan secured—

“(I) by a first mortgage on the consumer’s principal dwelling, the annual percentage rate at consummation of the transaction will exceed by more

1 than 8 percentage points the yield on  
2 Treasury securities having comparable  
3 periods of maturity on the 15th day of  
4 the month immediately preceding the  
5 month in which the application for the  
6 extension of credit is received by the  
7 creditor; or

8 “(II) by a subordinate or junior  
9 mortgage on the consumer’s principal  
10 dwelling, the annual percentage rate  
11 at consummation of the transaction  
12 will exceed by more than 10 percent-  
13 age points the yield on Treasury secu-  
14 rities having comparable periods of  
15 maturity on the 15th day of the  
16 month immediately preceding the  
17 month in which the application for the  
18 extension of credit is received by the  
19 creditor;

20 “(ii) the total points and fees payable  
21 in connection with the loan exceed—

22 “(I) in the case of a loan for  
23 \$20,000 or more, 5 percent of the  
24 total loan amount; or

1                   “(II) in the case of a loan for  
2                   less than \$20,000, the lesser of 8 per-  
3                   cent of the total loan amount or  
4                   \$1,000; or

5                   “(iii) the loan documents permit the  
6                   creditor to charge or collect prepayment  
7                   fees or penalties more than 30 months  
8                   after the loan closing or such fees or pen-  
9                   alties exceed, in the aggregate, more than  
10                  2 percent of the amount prepaid.

11                  “(B) INTRODUCTORY RATES TAKEN INTO  
12                  ACCOUNT.—For purposes of subparagraph  
13                  (A)(i), the annual percentage rate of interest  
14                  shall be determined based on the following in-  
15                  terest rate:

16                       “(i) In the case of a fixed-rate loan in  
17                       which the annual percentage rate will not  
18                       vary during the term of the loan, the inter-  
19                       est rate in effect on the date of consumma-  
20                       tion of the transaction.

21                       “(ii) In the case of a loan in which  
22                       the rate of interest varies solely in accord-  
23                       ance with an index, the interest rate deter-  
24                       mined by adding the index rate in effect on  
25                       the date of consummation of the trans-

1 action to the maximum margin permitted  
2 at any time during the loan agreement.

3 “(iii) In the case of any other loan in  
4 which the rate may vary at any time dur-  
5 ing the term of the loan for any reason,  
6 the interest charged on the loan at the  
7 maximum rate that may be charged during  
8 the term of the loan.”.

9 (b) ADJUSTMENT OF PERCENTAGE POINTS.—Section  
10 103(aa)(2) of the Truth in Lending Act (15 U.S.C.  
11 1602(aa)(2)) is amended by striking subparagraph (B)  
12 and inserting the following new subparagraph:

13 “(B) An increase or decrease under sub-  
14 paragraph (A)—

15 “(i) may not result in the number of  
16 percentage points referred to in paragraph  
17 (1)(A)(i)(I) being less than 6 percentage  
18 points or greater than 10 percentage  
19 points; and

20 “(ii) may not result in the number of  
21 percentage points referred to in paragraph  
22 (1)(A)(i)(II) being less than 8 percentage  
23 points or greater than 12 percentage  
24 points.”.

25 (c) POINTS AND FEES DEFINED.—

1           (1) IN GENERAL.—Section 103(aa)(4) of the  
2       Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is  
3       amended—

4                   (A) by striking subparagraph (B) and in-  
5       serting the following:

6                   “(B) all compensation paid directly or indi-  
7       rectly by a consumer or creditor to a mortgage  
8       broker from any source, including a mortgage  
9       broker that originates a loan in the name of the  
10      broker in a table-funded transaction;”;

11                  (B) in subparagraph (C)(ii), by striking  
12      “and” after the semicolon at the end;

13                  (C) by redesignating subparagraph (D) as  
14      subparagraph (G); and

15                  (D) by inserting after subparagraph (C)  
16      the following new subparagraphs:

17                  “(D) premiums or other charges payable at  
18      or before closing for any credit life, credit dis-  
19      ability, credit unemployment, or credit property  
20      insurance, or any other accident, loss-of-income,  
21      life or health insurance, or any payments di-  
22      rectly or indirectly for any debt cancellation or  
23      suspension agreement or contract, except that  
24      insurance premiums or debt cancellation or sus-  
25      pension fees calculated and paid in full on a

1           monthly basis shall not be considered financed  
2           by the creditor;

3           “(E) except as provided in subsection (cc),  
4           the maximum prepayment fees and penalties  
5           which may be charged or collected under the  
6           terms of the loan documents;

7           “(F) all prepayment fees or penalties that  
8           are incurred by the consumer if the loan refi-  
9           nances a previous loan made or currently held  
10          by the same creditor or an affiliate of the cred-  
11          itor; and”.

12          (2) CALCULATION OF POINTS AND FEES FOR  
13          OPEN-END LOANS.—Section 103(aa) of the Truth in  
14          Lending Act (15 U.S.C. 1602(aa)) is amended—

15                 (A) by redesignating paragraph (5) as  
16                 paragraph (6); and

17                 (B) by inserting after paragraph (4) the  
18                 following new paragraph:

19                 “(5) CALCULATION OF POINTS AND FEES FOR  
20                 OPEN-END LOANS.—In the case of open-end loans,  
21                 points and fees shall be calculated, for purposes of  
22                 this section and section 129, by adding the total  
23                 points and fees known at or before closing, including  
24                 the maximum prepayment penalties which may be  
25                 charged or collected under the terms of the loan doc-

1        uments, plus the minimum additional fees the con-  
2        sumer would be required to pay to draw down an  
3        amount equal to the total credit line.”.

4        (d) HIGH COST MORTGAGE LENDER.—Section  
5        103(f) of the Truth in Lending Act (15 U.S.C. 1602(f))  
6        is amended by striking the last sentence and inserting the  
7        following new sentence: “Any person who originates or  
8        brokers 2 or more mortgages referred to in subsection (aa)  
9        in any 12-month period, any person who originates 1 or  
10       more such mortgages through a mortgage broker in any  
11       12 month period, or, in connection with a table funding  
12       transaction of such a mortgage, and any person to whom  
13       the obligation is initially assigned at or after settlement  
14       shall be considered to be a creditor for purposes of this  
15       title.”.

16       (e) BONA FIDE DISCOUNT LOAN DISCOUNT POINTS  
17       AND PREPAYMENT PENALTIES.—Section 103 of the  
18       Truth in Lending Act (15 U.S.C. 1602) is amended by  
19       adding at the end the following new subsection:

20       “(cc) BONA FIDE DISCOUNT POINTS AND PREPAY-  
21       MENT PENALTIES.—For the purposes of determining the  
22       amount of points and fees for purposes of subsection (aa),  
23       either the amounts described in paragraphs (1) or (4) of  
24       the following paragraphs, but not both, may be excluded:



1           “(1) EXCLUSION OF BONA FIDE DISCOUNT  
2       POINTS.—The discount points described in 1 of the  
3       following subparagraphs shall be excluded from de-  
4       termining the amounts of points and fees with re-  
5       spect to a high-cost mortgage for purposes of sub-  
6       section (aa):

7           “(A) Up to and including 2 bona fide dis-  
8       count points payable by the consumer in con-  
9       nection with the mortgage, but only if the inter-  
10      est rate from which the mortgage’s interest rate  
11      will be discounted does not exceed by more than  
12      1 percentage point the required net yield for a  
13      90-day standard mandatory delivery commit-  
14      ment for a reasonably comparable loan from ei-  
15      ther the Federal National Mortgage Association  
16      or the Federal Home Loan Mortgage Corpora-  
17      tion, whichever is greater.

18          “(B) Unless 2 bona fide discount points  
19      have been excluded under subparagraph (A), up  
20      to and including 1 bona fide discount points  
21      payable by the consumer in connection with the  
22      mortgage, but only if the interest rate from  
23      which the mortgage’s interest rate will be dis-  
24      counted does not exceed by more than 2 per-  
25      centage points the required net yield for a 90-

1 day standard mandatory delivery commitment  
2 for a reasonably comparable loan from either  
3 the Federal National Mortgage Association or  
4 the Federal Home Loan Mortgage Corporation,  
5 whichever is greater.

6 “(2) DEFINITION.—For purposes of paragraph  
7 (1), the term ‘bona fide discount points’ means loan  
8 discount points which are knowingly paid by the con-  
9 sumer for the purpose of reducing, and which in fact  
10 result in a bona fide reduction of, the interest rate  
11 or time-price differential applicable to the mortgage.

12 “(3) EXCEPTION FOR INTEREST RATE REDUC-  
13 TIONS INCONSISTENT WITH INDUSTRY NORMS.—  
14 Paragraph (1) shall not apply to discount points  
15 used to purchase an interest rate reduction unless  
16 the amount of the interest rate reduction purchased  
17 is reasonably consistent with established industry  
18 norms and practices for secondary mortgage market  
19 transactions.

20 “(4) ALLOWANCE OF CONVENTIONAL PREPAY-  
21 MENT PENALTY.—Subsection (aa)(1)(4)(E) shall not  
22 apply so as to include a prepayment penalty or fee  
23 that is authorized by law other than this title and  
24 may be imposed pursuant to the terms of a high-cost

1 mortgage (or other consumer credit transaction se-  
2 cured by the consumer's principal dwelling) if—

3 “(A) the annual percentage rate applicable  
4 with respect to such mortgage or transaction  
5 (as determined for purposes of subsection  
6 (aa)(1)(A)(i))—

7 “(i) in the case of a first mortgage on  
8 the consumer's principal dwelling, does not  
9 exceed by more than 2 percentage points  
10 the yield on Treasury securities having  
11 comparable periods of maturity on the  
12 15th day of the month immediately pre-  
13 ceding the month in which the application  
14 for the extension of credit is received by  
15 the creditor; or

16 “(ii) in the case of a subordinate or  
17 junior mortgage on the consumer's prin-  
18 cipal dwelling, does not exceed by more  
19 than 4 percentage points the yield on such  
20 Treasury securities; and

21 “(B) the total amount of any prepayment  
22 fees or penalties permitted under the terms of  
23 the high-cost mortgage or transaction does not  
24 exceed 2 percent of the amount prepaid.”.

1 **SEC. 3. AMENDMENTS TO EXISTING REQUIREMENTS FOR**  
2 **CERTAIN MORTGAGES.**

3 (a) PREPAYMENT PENALTY PROVISIONS.—Section  
4 129(e)(2) of the Truth in Lending Act (15 U.S.C.  
5 1639(e)(2)) is amended—

6 (1) by striking “and” after the semicolon at the  
7 end of subparagraph (C);

8 (2) by redesignating subparagraph (D) as sub-  
9 paragraph (E); and

10 (3) by inserting after subparagraph (C) the fol-  
11 lowing new subparagraph:

12 “(D) the amount of the principal obliga-  
13 tion of the mortgage exceeds the maximum  
14 principal obligation limitation (for the applica-  
15 ble size residence) under section 203(b)(2) of  
16 the National Housing Act for the area in which  
17 the residence subject to the mortgage is located;  
18 and”.

19 (b) NO BALLOON PAYMENTS.—Section 129(e) of the  
20 Truth in Lending Act (15 U.S.C. 1639(e)) is amended to  
21 read as follows:

22 “(e) NO BALLOON PAYMENTS.—No high-cost mort-  
23 gage may contain a scheduled payment that is more than  
24 twice as large as the average of earlier scheduled pay-  
25 ments. This subsection shall not apply when the payment

1 schedule is adjusted to the seasonal or irregular income  
2 of the consumer.”.

3 (c) NO LENDING WITHOUT DUE REGARD TO ABIL-  
4 ITY TO REPAY.—Section 129(h) of the Truth in Lending  
5 Act (15 U.S.C. 1639(h)) is amended—

6 (1) by striking “PAYMENT ABILITY OF CON-  
7 SUMER.—A creditor shall not” and inserting “PAY-  
8 MENT ABILITY OF CONSUMER.—

9 “(1) PATTERN OR PRACTICE.—

10 “(A) IN GENERAL.—A creditor shall not”;

11 (2) by inserting after subparagraph (A) (as so  
12 designated by paragraph (1) of this subsection) the  
13 following new subparagraph:

14 “(B) PRESUMPTION OF VIOLATION.—

15 There shall be a presumption that a creditor  
16 has violated this subsection if the creditor en-  
17 gages in a pattern or practice of making high-  
18 cost mortgages without verifying or docu-  
19 menting the repayment ability of consumers  
20 with respect to such loans.”; and

21 (3) by adding at the end the following new  
22 paragraph:

23 “(2) PROHIBITION ON EXTENDING CREDIT  
24 WITHOUT REGARD TO PAYMENT ABILITY OF CON-  
25 SUMER.—

1           “(A) IN GENERAL.—A creditor may not  
2           extend credit to a consumer under a high-cost  
3           mortgage unless a reasonable creditor would be-  
4           lieve at the time the loan is closed that the con-  
5           sumer or consumers that are residing or will re-  
6           side in the residence subject to the mortgage  
7           will be able to make the scheduled payments as-  
8           sociated with the loan, based upon a consider-  
9           ation of current and expected income, current  
10          obligations, employment status, and other fi-  
11          nancial resources, other than equity in the resi-  
12          dence.

13          “(B) PRESUMPTION OF ABILITY.—For  
14          purposes of this subsection, there shall be a re-  
15          buttable presumption that a consumer is able to  
16          make the scheduled payments to repay the obli-  
17          gation if, at the time the loan is consummated,  
18          the consumer’s total monthly debts, including  
19          amounts under the loan, do not exceed 50 per-  
20          cent of his or her monthly gross income as  
21          verified by tax returns, payroll receipts, or other  
22          third-party income verification.”.

1 **SEC. 4. ADDITIONAL REQUIREMENTS FOR CERTAIN MORT-**  
2 **GAGES.**

3 (a) ADDITIONAL REQUIREMENTS FOR CERTAIN  
4 MORTGAGES.—Section 129 of the Truth in Lending Act  
5 (15 U.S.C. 1639) is amended—

6 (1) by redesignating subsections (j), (k) and (l)  
7 as subsections (n), (o) and (p) respectively; and

8 (2) by inserting after subsection (i) the fol-  
9 lowing new subsections:

10 “(j) RECOMMENDED DEFAULT.—No creditor shall  
11 recommend or encourage default on an existing loan or  
12 other debt prior to and in connection with the closing or  
13 planned closing of a high-cost mortgage that refinances  
14 all or any portion of such existing loan or debt.

15 “(k) LATE FEES.—

16 “(1) IN GENERAL.—No creditor may impose a  
17 late payment charge or fee in connection with a  
18 high-cost mortgage—

19 “(A) in an amount in excess of 4 percent  
20 of the amount of the payment past due;

21 “(B) unless the loan documents specifically  
22 authorize the charge or fee;

23 “(C) before the end of the 15-day period  
24 beginning on the date the payment is due, or in  
25 the case of a loan on which interest on each in-  
26 stallment is paid in advance, before the end of

1 the 30-day period beginning on the date the  
2 payment is due; or

3 “(D) more than once with respect to a sin-  
4 gle late payment.

5 “(2) COORDINATION WITH SUBSEQUENT LATE  
6 FEES.—If a payment is otherwise a full payment for  
7 the applicable period and is paid on its due date or  
8 within an applicable grace period, and the only delin-  
9 quency or insufficiency of payment is attributable to  
10 any late fee or delinquency charge assessed on any  
11 earlier payment, no late fee or delinquency charge  
12 may be imposed on such payment.

13 “(3) FAILURE TO MAKE INSTALLMENT PAY-  
14 MENT.—If, in the case of a loan agreement the  
15 terms of which provide that any payment shall first  
16 be applied to any past due principal balance, the  
17 consumer fails to make an installment payment and  
18 the consumer subsequently resumes making install-  
19 ment payments but has not paid all past due install-  
20 ments, the creditor may impose a separate late pay-  
21 ment charge or fee for any principal due (without  
22 deduction due to late fees or related fees) until the  
23 default is cured.

24 “(l) ACCELERATION OF DEBT.—No high-cost mort-  
25 gage may contain a provision which permits the creditor,



1 in its sole discretion, to accelerate the indebtedness. This  
 2 provision shall not apply when repayment of the loan has  
 3 been accelerated by default, pursuant to a due-on-sale pro-  
 4 vision, or pursuant to a material violation of some other  
 5 provision of the loan documents unrelated to the payment  
 6 schedule.

7 “(m) RESTRICTION ON FINANCING POINTS AND  
 8 FEES.—No creditor may directly or indirectly finance, in  
 9 connection with any high-cost mortgage, any of the fol-  
 10 lowing:

11 “(1) Any prepayment fee or penalty payable by  
 12 the consumer in a refinancing transaction if the  
 13 creditor or an affiliate of the creditor is the  
 14 noteholder of the note being refinanced.

15 “(2) Any points or fees.”.

16 (b) PROHIBITIONS ON EVASIONS.—Section 129 of  
 17 the Truth in Lending Act (15 U.S.C. 1639 is amended  
 18 by inserting after subsection (p) (as so redesignated by  
 19 subsection (a)(1) of this section) the following new sub-  
 20 section:

21 “(q) PROHIBITIONS ON EVASIONS, STRUCTURING OF  
 22 TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.—A  
 23 creditor may not take any action in connection with a  
 24 high-cost mortgage—

1           “(1) to structure a loan transaction as an open-  
2           end credit plan or another form of loan for the pur-  
3           pose and with the intent of evading the provisions of  
4           this title; or

5           “(2) to divide any loan transaction into sepa-  
6           rate parts for the purpose and with the intent of  
7           evading provisions of this title.”.

8           (c) MODIFICATION OR DEFERRAL FEES.—Section  
9   129 of the Truth in Lending Act (15 U.S.C. 1639) is  
10   amended by inserting after subsection (q) (as added by  
11   subsection (b) of this section) the following new sub-  
12   section:

13          “(r) MODIFICATION AND DEFERRAL FEES PROHIB-  
14   ITED.—A creditor may not charge a consumer any fee to  
15   modify, renew, extend, or amend a high-cost mortgage, or  
16   to defer any payment due under the terms of such mort-  
17   gage, unless the modification, renewal, extension or  
18   amendment results in a lower annual percentage rate on  
19   the mortgage for the consumer and then only if the  
20   amount of the fee is comparable to fees imposed for simi-  
21   lar transactions in connection with consumer credit trans-  
22   actions that are secured by a consumer’s principal dwell-  
23   ing and are not high-cost mortgages.”.

24          (d) PAYOFF STATEMENT.—Section 129 of the Truth  
25   in Lending Act (15 U.S.C. 1639) is amended by inserting

1 after subsection (r) (as added by subsection (c) of this  
2 section) the following new subsection:

3 “(s) PAYOFF STATEMENT.—

4 “(1) FEES.—

5 “(A) IN GENERAL.—Except as provided in  
6 subparagraph (B), no creditor or servicer may  
7 charge a fee for informing or transmitting to  
8 any person the balance due to pay off the out-  
9 standing balance on a high-cost mortgage.

10 “(B) TRANSACTION FEE.—When payoff in-  
11 formation referred to in subparagraph (A) is  
12 provided by facsimile transmission or by a cou-  
13 rier service, a creditor or servicer may charge a  
14 processing fee to cover the cost of such trans-  
15 mission or service in an amount not to exceed  
16 an amount that is comparable to fees imposed  
17 for similar services provided in connection with  
18 consumer credit transactions that are secured  
19 by the consumer’s principal dwelling and are  
20 not high-cost mortgages.

21 “(C) FEE DISCLOSURE.—Prior to charging  
22 a transaction fee as provided in subparagraph  
23 (B), a creditor or servicer shall disclose that  
24 payoff balances are available for free pursuant  
25 to subparagraph (A).

1           “(D) MULTIPLE REQUESTS.—If a creditor  
2           or servicer has provided payoff information re-  
3           ferred to in subparagraph (A) without charge,  
4           other than the transaction fee allowed by sub-  
5           paragraph (B), on 4 occasions during a cal-  
6           endar year, the creditor or servicer may there-  
7           after charge a reasonable fee for providing such  
8           information during the remainder of the cal-  
9           endar year.

10          “(2) PROMPT DELIVERY.—Payoff balances shall  
11          be provided within a reasonable time but in any  
12          event no more than 5 business days after receiving  
13          a request by a consumer or a person authorized by  
14          the consumer to obtain such information.”.

15          (e) PRE-LOAN COUNSELING REQUIRED.—Section  
16 129 of the Truth in Lending Act (15 U.S.C. 1639) is  
17 amended by inserting after subsection (s) (as added by  
18 subsection (d) of this section) the following new sub-  
19 section:

20          “(t) PRE-LOAN COUNSELING.—

21               “(1) IN GENERAL.—A creditor may not extend  
22               credit to a consumer under a high-cost mortgage  
23               without first receiving certification from a counselor  
24               that is approved by the Secretary of Housing and  
25               Urban Development, or at the discretion of the Sec-

1       retary, a state housing finance authority, that the  
 2       consumer has received counseling on the advisability  
 3       of the loan transaction. Such counselor shall not be  
 4       employed by the creditor or an affiliate of the cred-  
 5       itor or be affiliated with the creditor.

6               “(2) DISCLOSURES REQUIRED PRIOR TO COUN-  
 7       SELING.—No counselor may certify that a consumer  
 8       has received counseling on the advisability of the  
 9       loan transaction unless the counselor can verify that  
 10      the consumer has received each statement required  
 11      (in connection with such loan) by section 129 of this  
 12      title or by the Real Estate Settlement Procedures  
 13      Act of 1974 with respect to the transaction.

14              “(3) REGULATIONS.—The Secretary of Housing  
 15      and Urban Development may prescribe such regula-  
 16      tions as the Secretary determines to be appropriate  
 17      to carry out the requirements of paragraph (1).”.

18   **SEC. 5. AMENDMENT TO PROVISION GOVERNING CORREC-**  
 19                           **TION OF ERRORS.**

20              (a) AMENDMENT TO PROVISION GOVERNING COR-  
 21      RECTION OF ERRORS.—Section 130(b) of the Truth in  
 22      Lending Act (15 U.S.C. 1640(b)) is amended to read as  
 23      follows:

24              “(b) CORRECTION OF ERRORS.—A creditor has no li-  
 25      ability under this section or section 108 or 112 for any

1 failure to comply with any requirement imposed under this  
2 chapter or chapter 5, if—

3 “(1) within 30 days of the loan closing and  
4 prior to the institution of any action, the consumer  
5 is notified of or discovers the violation, appropriate  
6 restitution is made, and whatever adjustments are  
7 necessary are made to the loan to either, at the  
8 choice of the consumer—

9 “(A) make the loan satisfy the require-  
10 ments of this chapter; or

11 “(B) change the terms of the loan in a  
12 manner beneficial to the consumer so that the  
13 loan will no longer be a high-cost mortgage; or

14 “(2) within 60 days of the creditor’s discovery  
15 or receipt of notification of an unintentional viola-  
16 tion or bona fide error as described in subsection (c)  
17 and prior to the institution of any action, the con-  
18 sumer is notified of the compliance failure, appro-  
19 priate restitution is made, and whatever adjustments  
20 are necessary are made to the loan to either, at the  
21 choice of the consumer—

22 “(A) make the loan satisfy the require-  
23 ments of this chapter or

1                   “(B) change the terms of the loan in a  
 2                   manner beneficial so that the loan will no  
 3                   longer be a high-cost mortgage.”.

4 **SEC. 6. AMENDMENT RELATING TO RIGHT OF RESCISSION.**

5           Section 130(e) of the Truth in Lending Act (15  
 6 U.S.C. 1640(e)) is amended by inserting after the second  
 7 sentence the following new sentence: “This subsection also  
 8 shall not bar a person from asserting a right to rescission  
 9 under section 125, in an action to collect the debt or as  
 10 a defense to a judicial or nonjudicial foreclosure after the  
 11 expiration of the time periods for affirmative actions set  
 12 forth in this section and section 125.”.

13 **SEC. 7. PROTECTIONS FOR ALL HOME LOANS.**

14           (a) IN GENERAL.—Chapter 2 of the Truth in Lend-  
 15 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting  
 16 after section 129 the following new section:

17 **“§ 129A. Protections for all home loans**

18           “(a) FLIPPING.—

19                   “(1) IN GENERAL.—No creditor may knowingly  
 20                   or intentionally engage in the unfair act or practice  
 21                   of flipping.

22                   “(2) FLIPPING DEFINED.—For purposes of this  
 23                   subsection, the term ‘flipping’ means the making of  
 24                   a loan or extension of credit to a consumer which re-  
 25                   finances an existing mortgage when the new loan or

1 extension of credit does not have reasonable, tan-  
2 gible net benefit to the consumer considering all of  
3 the circumstances, including the terms of both the  
4 new and the refinanced loans or credit, the cost of  
5 the new loan or credit, and the consumer's cir-  
6 cumstances.

7 “(3) TANGIBLE NET BENEFIT.—The Board  
8 may prescribe regulations, in the discretion of the  
9 Board, defining the term ‘tangible net benefit’ for  
10 purposes of this subsection.

11 “(b) SINGLE PREMIUM CREDIT INSURANCE PROHIB-  
12 ITED.—No creditor may finance, directly or indirectly, in  
13 connection with any consumer credit transaction that is  
14 secured by the consumer's principal dwelling, any credit  
15 life, credit disability, credit unemployment or credit prop-  
16 erty insurance, or any other accident, loss-of-income, life  
17 or health insurance, or any payments directly or indirectly  
18 for any debt cancellation or suspension agreement or con-  
19 tract, except that insurance premiums or debt cancellation  
20 or suspension fees calculated and paid in full on a monthly  
21 basis shall not be considered financed by the creditor.

22 “(c) ARBITRATION.—

23 “(1) IN GENERAL.—A consumer credit trans-  
24 action that is secured by the consumer's principal  
25 dwelling may not include terms which require arbi-



1       tration or any other nonjudicial procedure as the  
2       method for resolving any controversy or settling any  
3       claims arising out of the transaction.

4               “(2) POST-CONTROVERSY AGREEMENTS.—Sub-  
5       ject to paragraph (3), paragraph (1) shall not be  
6       construed as limiting the right of the consumer and  
7       the creditor to agree to arbitration or any other non-  
8       judicial procedure as the method for resolving any  
9       controversy at any time after a dispute or claim  
10      under the transaction arises.

11              “(3) NO WAIVER OF STATUTORY CAUSE OF AC-  
12      TION.—No provision of any consumer credit trans-  
13      action that is secured by the consumer’s principal  
14      dwelling and no other agreement between the con-  
15      sumer and the creditor shall be applied or inter-  
16      preted so as to bar a consumer from bringing an ac-  
17      tion in an appropriate district court of the United  
18      States, or any other court of competent jurisdiction,  
19      pursuant to section 130 or any other provision of  
20      law, for damages or other relief in connection with  
21      any alleged violation of this section, any other provi-  
22      sion of this title, or any other Federal law.”.

23              (b) CLERICAL AMENDMENT.—The table of sections  
24      for chapter 2 of the Truth in Lending Act is amended

1 by inserting after the item relating to section 129 the fol-  
2 lowing new item:

“129A. Protections for all home loans.”.

3 **SEC. 8. AMENDMENTS TO CIVIL LIABILITY PROVISIONS.**

4 (a) INCREASE IN AMOUNT OF CIVIL MONEY PEN-  
5 ALTIES FOR CERTAIN VIOLATIONS.—Section 130(a) of  
6 the Truth in Lending Act (15 U.S.C. 1640(a)) is amend-  
7 ed, in the matter preceding paragraph (1), by striking “an  
8 amount equal to the sum” and inserting “an amount equal  
9 to twice the sum”.

10 (b) STATUTE OF LIMITATIONS EXTENDED FOR SEC-  
11 TION 129 OR 129A VIOLATIONS.—Section 130(e) of the  
12 Truth in Lending Act (15 U.S.C. 1640(e)) (as amended  
13 by section 6 of this Act) is amended—

14 (1) in the first sentence, by striking “Any ac-  
15 tion” and inserting “Except as provided in the sub-  
16 sequent sentence, any action”;

17 (2) by inserting after the first sentence the fol-  
18 lowing new sentence: “Any action under this section  
19 with respect to any violation of section 129 or 129A  
20 may be brought in any United States district court,  
21 or in any other court of competent jurisdiction, be-  
22 fore the end of the 3-year period beginning on the  
23 date of the occurrence of the violation.”; and

1           (3) in the 4th sentence (as determined taking  
2       into account the amendment made by paragraph  
3       (2)), by inserting “or 129A” after “section 129”.

4   **SEC. 9. REGULATIONS.**

5       (a) IN GENERAL.—The Board of Governors of the  
6   Federal Reserve System shall publish regulations imple-  
7   menting this Act and the amendments made by this Act  
8   in final form before the end of the 6-month period begin-  
9   ning on the date of enactment of this Act.

10       (b) CONSUMER MORTGAGE EDUCATION.—

11           (1) REGULATIONS.—The Board may prescribe  
12       regulations requiring or encouraging creditors to  
13       provide consumer mortgage education to prospective  
14       customers or direct such customers to qualified con-  
15       sumer mortgage education or counseling programs  
16       in the vicinity of the residence of the consumer.

17           (2) COORDINATION WITH STATE LAW.—No re-  
18       quirement established by the Board pursuant to  
19       paragraph (1) shall be construed as affecting or su-  
20       perseding any requirement under the law of any  
21       State with respect to consumer mortgage counseling  
22       or education.

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